

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

BRADLEY COLGATE, KAYTLIN
MCKNIGHT, M.H., a minor, by her mother
and natural guardian JENNIFER HELLMAN,
L.B., a minor, by her mother and natural
guardian, JILL NELSON, ANTHONY SMITH,
COREY SMITH, KACIE ANN LAGUN, A.U.,
a minor, by her mother and natural guardian,
LISA COMMITANTE, TOMMY BENHAM,
and DAVID LANGAN on behalf of
themselves, the general public and those
similarly situated,

Plaintiffs,

v.

JUUL LABS, INC.,

Defendant.

Case No.: 3:18-cv-02499-WHO

**JOINT STIPULATION
RECOMMENDING CASES BE
RELATED AND CONSOLIDATED AND
ORDER TO RELATE ACTIONS
PURSUANT TO CIVIL LOCAL RULES
3-12 AND 7-11 AND TO CONSOLIDATE
ACTIONS**

J.Y., a minor, by and with his mother and
natural guardian BARBARA YANNUCCI,
individually and on behalf of those similarly
situated,

Plaintiffs,

v.

JUUL LABS, INC.,

Defendant.

Case No. 3:18-cv-06776-JCS

MICHAEL VISCOMI, DAVID MASSESSA,
and MATTHEW PEDECINE, individually and
on behalf of those similarly situated,

Plaintiffs,

v.

JUUL LABS, INC.,

Defendant.

Pursuant to Federal Rule of Civil Procedure 42(a) and Local Rule 3-12(a), Plaintiffs Bradley Colgate; Kaytlin McKnight; M.H., a minor, by her mother and natural guardian Jennifer Hellman; L.B., a minor, by her mother and natural guardian, Jill Nelson; Anthony Smith; Corey Smith; Kacie Ann Lagun; A.U., a minor, by her mother and natural guardian, Lisa Commitante; Tommy Benham; David Langan; J.Y., a minor, by and with his mother and natural guardian Barbara Yannucci; Michael Viscomi; David Massessa; and Matthew Pedecine and Defendant JUUL Labs, Inc. jointly request that the above-captioned actions be related and consolidated for all pretrial and trial proceedings. The parties, by and through their undersigned counsel, stipulate as follows:

WHEREAS, on April 26, 2018, Migliaccio & Rathod LLP and Gutride Safier LLP filed *Colgate et al. v. JUUL Labs, Inc. and PAX Labs, Inc.*, No. 3:18-cv-02499-WHO (N.D. Cal.) (“*Colgate*”);

WHEREAS, on August 31, 2018, Berger Montague, PC filed *Viscomi et al. v. JUUL Labs, Inc. and PAX Labs, Inc.*, No. 5:18-cv-03760-EGS (E.D. Pa.) (“*Viscomi*”) (*See* Ex. 1);

WHEREAS, on September 27, 2018, the Court appointed Migliaccio & Rathod LLP and Gutride Safier LLP as Interim Class Counsel for a proposed nationwide class of individuals who purchased JUUL electronic nicotine delivery systems (Dkt. 63);

WHEREAS, on October 10, 2018, Berger Montague, PC filed *J.Y. v. JUUL Labs, Inc.*, No. 2:18-cv-14416-RLR (S.D. Fla.) (“*J.Y.*”) (*See* Ex. 2);

1 WHEREAS, on October 30, 2018, the Court issued an order denying JUUL's motion to strike
2 Plaintiffs' nationwide class allegations as premature, and partially granting and partially denying
3 JUUL's motion to dismiss (Dkt. 66);

4 WHEREAS, on November 5, 2018, per the parties' stipulated agreement that there was
5 substantial overlap between *J.Y.* and the *Colgate* action and that it would be most efficient for the
6 Northern District of California to decide both cases, JUUL filed a Stipulation and Joint Motion to
7 Transfer *J.Y.* to the Northern District of California;

9 WHEREAS, on November 6, 2018, the court in *J.Y.* granted the Stipulation and Joint Motion to
10 Transfer *J.Y.* to the Northern District of California under 28 U.S.C. § 1404(a) (*See* Ex. 3).

11 WHEREAS, on November 8, 2018, *J.Y.* was transferred to the United States District Court for
12 the Northern District of California;

14 WHEREAS, on November 6, 2018, per the parties' stipulated agreement that there was
15 substantial overlap between *Viscomi* and the *Colgate* action and that it would be most efficient for the
16 Northern District of California to decide both cases, the court in *Viscomi* granted a Stipulation to
17 Transfer *Viscomi* to the United States District Court for the Northern District of California under 28
18 U.S.C. § 1404(a) (*See* Ex. 4);

20 WHEREAS, on November 8, 2018, *Viscomi* was transferred to the United States District Court
21 for the Northern District of California;

22 WHEREAS, counsel for the parties have conferred and are in agreement that it is in the best
23 interests of the respective parties and absent class members that the *J.Y.* and *Viscomi* actions (Northern
24 District of California Case Nos. 3:18-cv-06776-JCS and 3:18-cv-06808-LB, respectively) be
25 consolidated with the *Colgate* action for all purposes;
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1 WHEREAS, *Colgate, J.Y.*, and *Viscomi* are appropriate for consolidation under Rule 42 of the
2 Federal Rules of Civil Procedure because they involve common questions of law and fact arising from
3 allegations (denied by Defendant) that JUUL electronic nicotine delivery systems are defectively
4 designed or manufactured and that JUUL unlawfully marketed its products; and

5 WHEREAS, Interim Class Counsel and counsel for the plaintiffs in *J.Y.* and *Viscomi* have met
6 and conferred and have agreed to work together on behalf of the plaintiffs and the proposed class.
7

8 IT IS HEREBY STIPULATED AND AGREED by the parties, through their counsel of record,
9 subject to the Court's approval, that:

10 1. *Colgate, J.Y.*, and *Viscomi* should be related pursuant to Local Rule 3-12;

11 2. Pursuant to Rule 42 of the Federal Rules of Civil Procedure, the master docket and master file
12 for the consolidated action shall be Case No. 3:18-cv-2499-WHO, and the consolidated action shall bear
13 the caption *In re: JUUL Labs, Inc. Products Litigation*.
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15 3. All subsequently filed class or individual actions against the Defendant alleging the same or
16 similar claims as alleged in the complaints in these actions shall be consolidated under the case *In re:*
17 *JUUL Labs, Inc. Products Litigation*, Case No. 3:18-cv-2499-WHO.
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19 4. All orders, pleadings, motions and other documents shall, when filed and docketed in the
20 master file, be deemed filed and docketed in each individual case to the extent applicable.

21 5. Gutride Safier LLP and Migliaccio & Rathod LLP shall serve as Interim Class Counsel in the
22 consolidated action.
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24 6. A consolidated amended complaint encompassing all actions deemed related to the *Colgate*
25 action shall be filed in the consolidated action by January 7, 2019.

26 7. Defendant's response to the consolidated amended complaint shall be due on February 22,
27 2019.
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IT IS SO STIPULATED.

DATED: November 21, 2018

GIBSON, DUNN & CRUTCHER, LLP

By: /s/ Austin V. Schwing**

** Pursuant to Civil L.R. 5-1(i)(3),
the filer of the document has
obtained the concurrence of all
other signatories.

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DATED: November 21, 2018

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Attorneys for Plaintiffs in the *Colgate*
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DATED: November 21, 2018

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and the *Viscomi* action

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IT IS SO ORDERED.

W. H. Orrick
The Honorable William H. Orrick
UNITED STATES DISTRICT JUDGE